

House File 2264 - Introduced

HOUSE FILE 2264

BY GRASSLEY

A BILL FOR

1 An Act relating to the emergency detention or hospitalization
2 of a person incapacitated by a chemical substance or with a
3 serious mental impairment.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 125.10, Code 2009, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 18. Develop and implement policies for
4 providing notice to a law enforcement agency as required by
5 section 125.91.

6 Sec. 2. Section 125.34, subsection 2, Code 2009, is amended
7 to read as follows:

8 2. If no facility is readily available the person may
9 be taken to an emergency medical service customarily used
10 for incapacitated persons. The peace officer in detaining
11 the person and in taking the person to a facility shall make
12 every reasonable effort to protect the person's health and
13 safety. In detaining the person the detaining officer may take
14 reasonable steps for self-protection. Detaining a person under
15 section 125.91 is not an arrest and no entry or other record
16 shall be made to indicate that the person who is detained has
17 been arrested or charged with a crime except for an entry
18 or other record relating to an arrest upon discharge that is
19 permissible under section 125.91.

20 Sec. 3. Section 125.91, subsection 2, Code Supplement 2009,
21 is amended by adding the following new paragraph:

22 NEW PARAGRAPH. *Ob.* In circumstances where a peace officer
23 delivers a person to the facility and the peace officer
24 notifies the facility, in writing, that the person is to
25 be arrested upon discharge, the facility shall notify the
26 law enforcement agency that employs the peace officer by
27 telephone and electronic mail at least six hours prior to the
28 planned discharge of the person from the facility. If the law
29 enforcement agency does not retrieve the person prior to the
30 time of the planned discharge, the person may be discharged as
31 planned.

32 Sec. 4. Section 135B.7, Code Supplement 2009, is amended by
33 adding the following new subsection:

34 NEW SUBSECTION. 5. The department shall adopt rules to
35 establish and implement protocols for providing notice to a law

1 enforcement agency as required by section 229.22.

2 Sec. 5. Section 229.22, subsection 2, paragraph a, Code
3 Supplement 2009, is amended to read as follows:

4 a. In the circumstances described in subsection 1, any
5 peace officer who has reasonable grounds to believe that
6 a person is mentally ill, and because of that illness is
7 likely to physically injure the person's self or others if
8 not immediately detained, may without a warrant take or cause
9 that person to be taken to the nearest available facility or
10 hospital as defined in section 229.11, subsection 1, paragraphs
11 "b" and "c". A person believed mentally ill, and likely to
12 injure the person's self or others if not immediately detained,
13 may be delivered to a facility or hospital by someone other
14 than a peace officer. Upon delivery of the person believed
15 mentally ill to the facility or hospital, the examining
16 physician may order treatment of that person, including
17 chemotherapy, but only to the extent necessary to preserve
18 the person's life or to appropriately control behavior by the
19 person which is likely to result in physical injury to that
20 person or others if allowed to continue. The peace officer
21 who took the person into custody, or other party who brought
22 the person to the facility or hospital, shall describe the
23 circumstances of the matter to the examining physician. If the
24 person is a peace officer, the peace officer may do so either
25 in person or by written report. If the examining physician
26 finds that there is reason to believe that the person is
27 seriously mentally impaired, and because of that impairment is
28 likely to physically injure the person's self or others if not
29 immediately detained, the examining physician shall at once
30 communicate with the nearest available magistrate as defined
31 in section 801.4, subsection 10. The magistrate shall, based
32 upon the circumstances described by the examining physician,
33 give the examining physician oral instructions either directing
34 that the person be released forthwith or authorizing the
35 person's detention in an appropriate facility or hospital. The

1 magistrate may also give oral instructions and order that the
2 detained person be transported to an appropriate facility or
3 hospital.

4 Sec. 6. Section 229.22, subsection 2, Code Supplement 2009,
5 is amended by adding the following new paragraph:

6 NEW PARAGRAPH. *Ob.* In circumstances where a peace officer
7 delivers a person to a facility or hospital and the peace
8 officer notifies the facility or hospital, in writing, that
9 the person is to be arrested upon discharge or release, the
10 facility or hospital shall notify the law enforcement agency
11 that employs the peace officer by telephone and electronic
12 mail at least six hours prior to the planned discharge or
13 release of the person from the facility or hospital. If the
14 law enforcement agency does not retrieve the person prior to
15 the time of the planned discharge or release, the person may be
16 discharged or released as planned.

17 Sec. 7. Section 229.22, subsection 2, paragraph b, Code
18 Supplement 2009, is amended to read as follows:

19 *b.* If the magistrate orders that the person be detained,
20 the magistrate shall, by the close of business on the next
21 working day, file a written order with the clerk in the county
22 where it is anticipated that an application may be filed
23 under section 229.6. The order may be filed by facsimile if
24 necessary. The order shall state the circumstances under which
25 the person was taken into custody or otherwise brought to a
26 facility or hospital, and the grounds supporting the finding of
27 probable cause to believe that the person is seriously mentally
28 impaired and likely to injure the person's self or others if
29 not immediately detained. The order shall confirm the oral
30 order authorizing the person's detention including any order
31 given to transport the person to an appropriate facility or
32 hospital. The clerk shall provide a copy of that order to the
33 chief medical officer of the facility or hospital to which the
34 person was originally taken, to any subsequent facility or
35 hospital to which the person was transported, and to any law

1 enforcement department or ambulance service that transported
2 the person pursuant to the magistrate's order.

3 EXPLANATION

4 This bill relates to the emergency detention or
5 hospitalization of a person incapacitated by a chemical
6 substance or with a serious mental impairment.

7 The bill applies to persons who are not under arrest but who
8 will be placed under arrest upon discharge or release from the
9 facility or hospital treating the person.

10 The bill requires the director of public health to develop
11 and implement policies for a facility licensed under Code
12 chapter 125 (chemical substance abuse) for notifying a law
13 enforcement agency of the planned discharge of a person as
14 required by Code section 125.91 under the bill. Violations
15 of the requirements of Code chapter 125 are governed by Code
16 section 125.17.

17 Under the bill, if a peace officer delivers a person to a
18 facility for detention due to incapacitation from a chemical
19 substance, and the peace officer indicates the person is to
20 be arrested upon discharge from the facility, the facility
21 shall contact the law enforcement agency that employs the peace
22 officer by telephone and electronic mail at least six hours
23 prior to the planned discharge of the person from the facility.
24 The bill provides that if the law enforcement agency does not
25 retrieve the person prior to the time of the planned discharge,
26 the person may be discharged as planned.

27 The department of inspections and appeals is required to
28 adopt rules to establish and implement protocols for notifying
29 a law enforcement agency of the planned discharge of a person
30 as required by Code section 229.22 as amended by the bill.
31 Violations of the requirements of Code chapter 135B are
32 governed by Code section 135B.6.

33 Under the bill, if a peace officer delivers a person to a
34 hospital for emergency hospitalization for a serious mental
35 impairment, and the peace officer indicates the person is to

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1 be arrested upon discharge or release from the hospital, the
2 hospital shall contact the law enforcement agency that employs
3 the peace officer by telephone and electronic mail at least
4 six hours prior to the planned discharge or release of the
5 person from the hospital. The bill provides that if the law
6 enforcement agency does not retrieve the person prior to the
7 time of the planned discharge or release, the person may be
8 discharged or released as planned.